(36)

HIGH COURT OF CHHATTISGARH: BILASPUR

Writ Petition (s) No. 2439 of 2005

Petitioner — Ashvani Kumar Dewangaon, S/o. Late Shri Lakhanlal Dewangan, Ex-Jeep Driver, Office of the B.D.O., Kurud, r/o. Sanjay Nagar Kurud, Tahsil Kurud, Dist. Raipur, CG.

Versus

Respondents

1) State of Madhya Pradesh through Secretary Revenue Department, Vallabh Bhawan, Bhopal, MP.

2) Block Development Officer, Vikas Khand Kurud, Tahsil Kurud, Dist. Raipur, CG.

3) Collector, Raipur, CG.

SB: Hon'ble Shri Justice Satish K. Agnihotri

Present:

Shri A.S. Rajput, counsel for the petitioner.
Ku. Dipali Pandey, Panel Lawyer for respondents No. 2&3.

ORAL ORDER
(Passed on 2nd May, 2007)

By this petition, the petitioner seeks quashing of the termination order dated 2-1-1998 (Annexure A/9) as illegal and further to grant reinstatement with back wages.

2) The indisputable facts, in nutshell, are that the petitioner was appointed on daily wages at Collector's rate vide order dated 3-1-1989 (Annexure A/1) and continued in the same capacity till he was granted regular pay scale vide order dated 23-12-1997. Thereafter, by impugned order dated 2-1-1998 (Annexure A/9), services of the petitioner was discontinued as his appointment was on daily wage basis. The petitioner impugns the order dated 2-1-1998 (Annexure A/9) on the

ground that he has attained the status of regular employee as regular pay scale was granted to him. Thus, no termination order can be passed without issuing proper show cause notice.

3) Learned counsel appearing for the petitioner submits that the services of the petitioner, after having been regularized, cannot be terminated without following due process of law and without affording an opportunity of hearing to put-forward his case.

4) Per contra, learned counsel appearing for the State/respondents submits that the appointment of the petitioner was on daily wages basis without calling applications from the similarly situated candidates and as such the regularization thereafter does not confer any right on the petitioner on the ground that the initial appointment itself was not in accordance with the constitutional scheme of employment and further not in accordance with the rules and regulations prevalent at that time.

5) I have heard learned counsel appearing for the parties, perused the records and the documents appended thereto. On perusal of the order dated 3-1-1989 (Annexure A/1), it is evident that the appointment of the petitioner on the post of Jeep Driver was on daily wages basis and the petitioner has not pointed out any other document that the appointment was made after following due process of law in accordance with the constitutional scheme of employment. Thereafter, the grant of regular pay-scale does not confer any right on the petitioner which he can claim to the post.

Sd/-
Satish K. Agnihotri
Judge